

**LEGISLATIVE SERVICES AGENCY  
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**FISCAL IMPACT STATEMENT**

**LS 6758**

**BILL NUMBER: SB 233**

**NOTE PREPARED: Feb 12, 2004**

**BILL AMENDED: Feb 12, 2004**

**SUBJECT:** Restitution as a Condition of Probation.

**FIRST AUTHOR:** Sen. Bray

**FIRST SPONSOR:** Rep. Foley

**BILL STATUS:** CR Adopted - 2<sup>nd</sup> House

**FUNDS AFFECTED: X GENERAL  
DEDICATED  
FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** (Amended) This bill has the following provisions:

- A. It allows a court to order restitution payments that are a condition of probation to be paid to a probation department that must forward the restitution payments to a victim, victim's family, or victim's estate.
- B. It provides that for purposes of the battery by bodily waste statute, an individual employed by certain courts is a "corrections officer."

**Effective Date:** July 1, 2004.

**Explanation of State Expenditures:** (Revised) *Provision B* – Under current law, the penalties for attacking a corrections officer are greater than the penalties for attacking a person with bodily waste. This bill would increase the penalties for attacks against employees of circuit, superior, county, probate, city, or town courts.

The following shows the type of crime if the action was against another person as opposed to a corrections officer.

<u>Action</u>	<u>Action Taken Against a</u>		<u>Added Time in Prison</u>
	<u>Person</u>	<u>Corrections Officer</u>	
Placing blood or another body fluid or waste in a rude insolent or angry manner	Class A misdemeanor	Class D felony	Six months to 3 years
If the blood, bodily fluid, or waste was infected with hepatitis B, HIV, or tuberculosis	Class D felony	Class C felony	1.5 to 5 years
If transmission of hepatitis B or tuberculosis occurs because of the act	Class C felony	Class B felony	4 to 12 years
If transmission of HIV occurs because of the act	Class B felony	Class A felony	14 to 30 years

The average expenditure to house an adult offender was \$26,825 in FY 2002. Assuming offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. However, any additional expenditures are likely to be small.

**Explanation of State Revenues:** *Provision B* --If additional court cases occur and fines are collected, revenue to both the Common School Fund (from criminal fines) and the state General Fund (from court fees) would increase. The maximum fine for all felonies is \$10,000 while the maximum fine for a Class A misdemeanor is \$5,000.

**Explanation of Local Expenditures:**

**Explanation of Local Revenues:** *Provision A* – Under current law, a court can order a person who is on probation to pay restitution to a victim of a crime that was conducted by the person on probation. The money paid by the person can be either paid to the Criminal Justice Institute of Indiana or to the clerk of the circuit court. This bill would allow the person to pay the restitution to the probation department to be forwarded to the victim of the crime, the victim's estate, or the family of a victim who is deceased. Depending on the decision of the court, this bill could transfer the workload for this task from either the Criminal Justice Institute or the clerk of the circuit court to the probation department under that court.

During CY 2002, trial courts in 67 counties and courts in 11 cities reported receiving \$6.59 M in restitution from probationers to be forwarded to aggrieved parties.

<b>Restitution (In Millions) Collected From Offenders on Probation By Calendar Year</b>				
<u>1998</u>	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>
\$5.49	\$5.72	\$6.81	\$7.17	\$6.59

The Indiana Criminal Justice Institute reports the following revenues that have been collected for victim restitution and deposited in the Victims Compensation Fund:

Court-Ordered Restitution Deposited in Violent Crime Victims Compensation Fund By Fiscal Year				
<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>
\$45,935	\$32,214	\$26,423	\$32,203	\$22,435

**State Agencies Affected:** Criminal Justice Institute, Department of Correction.

**Local Agencies Affected:** Courts, Probation Offices, Clerk of the Circuit Courts, trial courts, local law enforcement agencies.

**Information Sources:** Criminal Justice Institute, *2002 Indiana Probation Report*; Department of Correction.

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